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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,041	08/29/2003	Harry R. Stoller	4799/0119PUS1	8523

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EXAMINER
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TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/651,041	<b>Applicant(s)</b> STOLLER ET AL.	
	<b>Examiner</b> Hanh V. Tran	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4-12, 14-18 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-12, 14-18, 35-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/26/2006 has been entered.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-2, 4-8, 10-11, 14-17, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,563,048 to Holt et al in view of USP 2,610,035 to Wennlund and USP 5,297,645 to Eckersley et al.

Holt discloses a storage unit comprising all the elements recited in the above listed claim including a storage compartment with sides, such as shown in Figs 7-8, an opening in at least one of the sides, a plurality of rollers 691 arranged on a lower portion

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of the storage unit, a plurality of trays 540, a plurality of roller shelves 530 having hooks for attaching to the opening in the at least one of the sides of the storage compartment; wherein the roller shelf is free standing, the tray is a flat plate, telecommunications and batteries housed in the storage compartment. In regard to claim 11, Holt discloses interlock (such as members 532,534 shown in Fig 7A) to prevent the tray from moving prior to attaching the roller shelf to the storage unit. The differences being that Holt does not disclose the roller shelf being provided with rollers, the plurality of rollers are mounted in a manner so as to project partially through openings formed in the lower portion of the storage unit and a surface of the roller shelf, the roller shelf serves as a door and being pivotably attached to the storage unit below the opening of the compartment, swinging upward to close the opening, the rollers being distributed substantially uniformly over the lower portion of the storage unit and the roller shelf, the roller shelf including two or more bracket assemblies with rollers, the bracket assemblies being usable independently of each other, the tray being movable completely outside the storage unit onto the roller shelf. In regard to claims 17 and 38, the roller shelf "may be stored" above the batteries in the storage compartment when not supporting the tray, thus holding the batteries securely on the tray.

Wennlund teaches the idea of providing a storage unit with a roller shelf 20,21 having a plurality of rollers 38, the roller shelf serves as a door and being pivotably attached to the storage unit below the opening of the compartment, swinging upward to close the opening, the rollers being distributed substantially uniformly over the lower portion of the storage unit and the roller shelf, the roller shelf including two or more

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bracket assemblies 37a-d with rollers, the bracket assemblies being usable independently of each other, and the item 16 stored therein being movable completely outside the storage unit onto the roller shelf; wherein the structure facilitates moving the item from a stored position to an extended easy to access position. Eckersley et al teaches that it is well known in the art to provide a horizontal support platform with a plurality of rollers mounted in a manner so as to project partially through openings formed in the horizontal support platform in order to facilitate movement of an article supported thereon between an extended and retracted position. Therefore, it would have been obvious to modify the structure of Holt et al by providing the roller shelf with a plurality of rollers, the roller shelf serves as a door and being pivotably attached to the storage unit below the opening of the compartment, swinging upward to close the opening, the rollers being distributed substantially uniformly over the lower portion of the storage unit and the roller shelf, the roller shelf including two or more bracket assemblies with rollers, the bracket assemblies being usable independently of each other, and the tray being movable completely outside the storage unit onto the roller shelf in order to facilitate moving the tray from a stored position to an extended easy to access position, as taught by Wennlund, and the plurality of rollers being mounted in a manner so as to project partially through openings formed in the lower portion of the storage unit and a surface of the roller shelf in order to facilitate movement of an article supported thereon between an extended and retracted position, as taught by Eckersley et al, since each teaches alternate conventional compartment unit having roller shelf

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structure, used for the same intended purpose of housing articles therein, thereby providing structure as claimed.

5. Claims 1, 9, 12, 18, and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowan, Sr. et al in view of USP 2,610,035 to Wennlund, 5,297,645 to Eckersley et al, and USP 5,779,064 to Dolling.

Rowan, Sr. et al discloses a storage unit with a rolling tray arrangement comprising all the elements recited in the claim including, such as shown in Figs 2-3, a storage compartment with sides, an opening in at least one of the sides, a shelf 24 including a plate with a front wall and side walls extending rearwardly from ends of the front wall, the front wall and the side walls extending upwardly from the plate of the roller shelf, a plurality of rollers 42, a tray 28; wherein the tray 28 includes a flat plate-shaped bottom, a front wall, and side walls extending rearwardly from ends of the front wall, the front wall and the side walls extending upwardly from the flat plate-shaped bottom of the tray. The differences being that Rowan, Sr. et al does not disclose the shelf 24 provided with a plurality of rollers, the plurality of rollers are mounted in a manner so as to project partially through openings formed in the lower portion of the storage unit and a surface of the shelf 24, the openings and rollers on both the storage unit and the shelf are arranged in rows and columns, each row and column having at least three separate opening and rollers, the opening being provided on two of the sides of the compartment opposite each other.

Wennlund teaches the idea of providing a storage unit with a roller shelf 20,21 having a plurality of rollers 38, the roller shelf serves as a door and being pivotably



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attached to the storage unit below the opening of the compartment, swinging upward to close the opening, the rollers being distributed substantially uniformly over the lower portion of the storage unit and the roller shelf, the roller shelf including two or more bracket assemblies 37a-d with rollers, the bracket assemblies being usable independently of each other, and the item 16 stored therein being movable completely outside the storage unit onto the roller shelf; wherein the structure facilitates moving the item from a stored position to an extended easy to access position. Eckersley et al teaches that it is well known in the art to provide a horizontal support platform with a plurality of rollers mounted in a manner so as to project partially through openings formed in the horizontal support platform in order to facilitate movement of an article supported thereon between an extended and retracted position. Dolling teaches the idea of providing a plurality of easily secured and removed individual roller assemblies, each having openings and rollers arranged in rows and columns, each row and column having at least three separate opening and rollers; wherein the roller assemblies facilitates retrofitting a support surface with roller assemblies in order to allow easy movement of articles placed thereon. Therefore, it would have been obvious to modify the structure of Rowan, Sr. et al by providing the shelf with a plurality of rollers, the rollers being distributed substantially uniformly over the lower portion of the storage unit and the roller shelf, and the tray being movable completely outside the storage unit onto the roller shelf in order to facilitate moving the tray from a stored position to an extended easy to access position, as taught by Wennlund; further, it also would have been obvious to further modify the structure of Rowan, Sr. et al by having the plurality of

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rollers being mounted in a manner so as to project partially through openings formed in the lower portion of the storage unit and a surface of the roller shelf in order to facilitate movement of an article supported thereon between an extended and retracted position, as taught by Eckersley et al; furthermore, it also would have been obvious to further modify the structure of Rowan, Sr. et al by providing the openings and rollers on both the storage unit and the shelf being arranged in rows and columns, each row and column having at least three separate opening and rollers thereby facilitates retrofitting a support surface with roller assemblies in order to allow easy movement of articles placed thereon, since each reference teaches alternate conventional compartment unit having roller shelf structure, used for the same intended purpose of housing articles therein, thereby providing structure as claimed. In regard to claims 12 and 37 of the opening being provided on two of the sides of the compartment opposite each other, the examiner takes the Office notice that it is well known in the art to provide a storage compartment with openings on two opposite sides in order to allow access to the interior from two different sides.

### ***Response to Arguments***

6. In response to applicant's argument that Wenlund and Eckersley are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Wennlund and Eckersley are drawn to a storage unit



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each having roller shelf structure provided therein in order to facilitate moving a stored item between an extended and retracted position, thus they are analogous art.

7. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation stems from the fact that both Wennlund and Eckersley are drawn to a storage unit each having roller shelf structure provided therein in order to facilitate moving a stored item between an extended and retracted position.

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Dolling is also drawn to a storage unit having roller shelf structure provided therein with the rollers arranged in a certain configuration in order to facilitate retrofitting a support surface, thereby allowing easy movement of articles placed thereon, thus it is analogous.

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9. Applicant's arguments with respect to claim 12 have been considered but are moot in view of the new ground(s) of rejection.

10. In response to applicant's argument regarding the limitation in claims 17 and 38 of the roller shelf "may be stored" above the batteries in the storage compartment when not supporting the tray, thus holding the batteries securely on the tray, the examiner takes the position that the recitation of "may be stored" is not a positive limitation but only requires the ability to so perform. It does not constitute a positive limitation in any patentable sense.

#### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT

April 2, 2007



**Hanh V. Tran**  
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